Court. § 67e, which makes void as to creditors certain transfers made with intent to hinder, delay, or defraud creditors, was there *held* to apply even in the absence of an actual intent if the "obviously necessary effect" of the transfer was to hinder, delay, or defraud. The Supreme Court, moreover, seems to favor a similar interpretation of the same words as used in § 3 (1) of the BANKRUPTCY ACT, inasmuch as it expressly disapproved of *Githens* v. *Shiffer,* 112 Fed. 505, which had required a specific intent to hinder, delay, or defraud to be shown before a transfer of property could be considered an act of bankruptcy even though the result accomplished was to hinder, delay, or defraud creditors. The stricter construction given to the words in § 14b (4) of the BANKRUPTCY ACT by the instant case can be reconciled with *Dean* v. *Davis supra,* only on account of the somewhat penal character of that section. BLACK, BANKR. § 670; REMINGTON, BANKR. (2nd) § 2467.

BANKRUPTCY—FRAUDULENT TRANSFER OF PROPERTY BARRING DISCHARGE.—Bankrupt formed the defendant corporation with himself, his wife, his infant son, and his attorney, as incorporators, for the admitted purpose of withdrawing his property from the reach of his creditors. By an order of the referee in a summary proceeding, the trustees in bankruptcy were able to seize personalty which the bankrupt had, in pursuance of his plan, placed ostensibly in the possession of the corporation. The creditors of the bankrupt objected to his discharge in bankruptcy on the ground that he had transferred property with intent to defraud creditors. *Held,* that, inasmuch as there was no transfer, a discharge would not be denied. *W. A. Liller Bldg. Co.* v. *Reynolds* (C. C. A. 4th Circ., 1917), 247 Fed. 90.

If the property of a bankrupt is held by a third person without any adverse claim or with merely a colorable claim, the trustee may by summary process reduce it to possession. *Bryan* v. *Bernheimer,* 181 U. S. 188; *Mueller* v. *Nugent,* 184 U. S. 1; Babbitt 1. Dutcher, 216 U. S. 102; *In re Muncie Pulp Co.,* 139 Fed. 546; *In re Franklin Suit & Skirt Co.,* 197 Fed. 591; BRANDENBURG, BANKR. § 1168. A desire to expedite proceedings by means of this summary jurisdiction has perhaps led the courts to regard property which a bankrupt has ostensibly transferred to his wife with the intent to defraud his creditors as still the bankrupt's property. *In re Smith,* 100 Fed. 795; *In re Friedman,* 153 Fed. 939; *In re Eddleman,* 154 Fed. 160; *Shea* v. *Lewis,* 206 Fed. 877; COLLIER, BANKR. (11th ed.), 686, 1075; REMINGTON BANKR. § 1822. And since a corporation formed to defraud creditors is considered a nullity, an attempted transfer of property to it for that purpose leaves the property still in the possession of the bankrupt, so that the trustee may summarily seize it. *In re Berkowitz,* 22 A. B. R. 227, 173 Fed. 1013; *In re Rieger,* &c., 157 Fed. 609. Moreover, the bankrupt must schedule among his assets property thus fraudulently transferred. *In re Welch,* 100 Fed. 65; *In re Pierce,* Fed. Cas. No. 11, 141; *In re O'Bannon,* Fed. Cas. No. 10,394; COLLIER, BANKR. (11th ed.), 262. *Contra, In re Robertson,* Fed. Cas. No. 11,921. These authorities give some excuse for the decision in the principal case. Certainly if there be no "transfer," a dis-

charge in bankruptcy can not be denied merely because of an uneffectuated intent to transfer property fraudulently. BANKRUPTCY ACT, § 14b (4). But to make the test of "transfer" depend on whether or not the property can be recovered by summary proceedings seems erroneous. § 1a (25) of the BANKRUPTCY ACT defines a "transfer" as "the sale and every other and different mode of disposing of, or parting with property or the possession of property, absolutely or conditionally, as a payment, mortgage, gift, or security." *Pirie* v. *Chicago Title Co.*, 182 U. S. 438; COLLIER, BANKR. (11th ed.), 17. The distinction enunciated by the instant case has been ignored by prior cases, where it is said that a discharge will be denied whether or not the property can be recovered by any process. *In re Schenck*, 116 Fed. 554; *In re Nelson*, 179 Fed. 320; *Pirvitz* v. *Pithan*, 194 Fed. 403; *Lewis* v. *Julius*, 212 Fed. 225; *In re DeNomme*, 214 Fed. 671; BLACK, BANKR. § 670; BRANDENBURG, BANKR. § 1497; LOVELAND, BANKR. § 731; REMINGTON, BANKR. § 2553. While this may not be directly in conflict with the rule of the principal case, that can hardly be reconciled with the cases which deny a discharge where the property might have been recovered by summary proceedings even though it is not shown to have been recovered. *In re Heyman*, 104 Fed. 677; *In re Gift*, 130 Fed. 230; *In re Miller*, 135 Fed. 591; *In re Guilbert*, 169 Fed. 149. Nor does the decision seem in harmony with the other sections of the BANKRUPTCY ACT with reference to transferring property with intent to defraud creditors. A bankrupt who transfers property in fraud of creditors does not, under § 1a (15) of the BANKRUPTCY ACT, have the benefit of its valuation in determining his solvency although such property might be recovered by summary proceedings. *In re Hughes*, 183 Fed. 872; *Utah Ass'n of Credit Men* v. *Boyle Furniture Co.*, 39 Utah 518; COLLIER, BANKR. (11th ed.), 13; REMINGTON, BANKR. § 1344. § 67e, which makes void *as to creditors* transfers made with intent to defraud them, seems to imply that the attempted transfer may be considered a transfer for other purposes even if the trustee might attack it in a summary proceeding for the benefit of creditors. When presented with an analogous situation in regard to preferences, the courts have *held* that a nominal transfer of property with intent to defraud creditors or to prefer someone is no less an act of bankruptcy under § 3a (1) or (2) of the BANKRUPTCY ACT because the property might be recovered by summary proceedings. *In re Riggs Restaurant Co.*, 130 Fed. 691; *In re Edelman*, 130 Fed. 700; *Galbraith* v. *Robson-Hilliard Grocery Co.*, 216 Fed. 842; COLLIER, BANKR. (11th ed.), 99, 543, 881, 889.

BANKRUPTCY—WHEN MUST PETITIONING CREDITORS' CLAIMS BE PROVABLE. —In an involuntary petition in bankruptcy, the claims of the petitioning creditors were shown to have been provable at the time of the filing of the petition, but it was uncertain whether they were provable at the time of the alleged acts of bankruptcy. *Held*, on demurrer, that it was sufficient if the claims were provable when the petition was filed. *In re Van Horn, Van Horn* v. *Levison*, (C. C. A., 3rd Circ., 1917), 246 Fed. 822.

Three or more creditors of a person may, with certain limitations, file